

*RECEIVED
JUN 8 2005
U.S. DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS*

CASE NUMBER: 05-10007-MLW

JOANNE PARISI, individually and
as Executrix of the Estate of

LEONARDO PARISI,
Plaintiff,

VS.

JOHN G. GRIBBEN, M.D.,
Defendant.

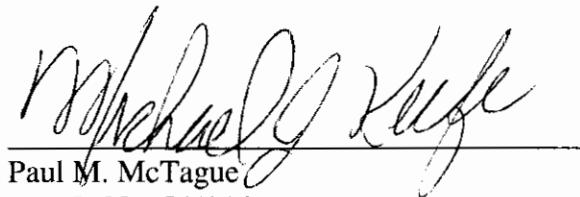
) MOTION OF THE DEFENDANT JOHN
GRIBBEN FOR ORDER REFERRING
THIS MATTER TO THE CLERK OF THE
SUFFOLK SUPERIOR COURT TO
CONVENE A MEDICAL
MALPRACTICE TRIBUNAL

Now comes the defendant, John G. Gribben, M.D., and requests that the above matter be referred to the Clerk of the Suffolk Superior Court for the convening of a Medical Malpractice Tribunal pursuant to G.L. c. 231, §60B. In support of this motion the defendant states that:

1. This is an action for malpractice, mistake or error against a provider of health care and falls within the provisions of Mass. Gen. Laws c. 231, Sec. 60B. Said statute provides that all actions subject to its provisions shall be heard by a medical malpractice tribunal which shall determine whether the plaintiff's Offer of Proof presents evidence which if properly substantiated is sufficient to raise a legitimate question of liability appropriate for judicial inquiry.
2. It is well settled that the federal district courts sitting in diversity on medical malpractice actions involving allegations of alleged medical malpractice occurring in the Commonwealth of Massachusetts must refer the matter to a medical malpractice tribunal. Feinstein v. Massachusetts General Hospital, 643 F. 2d. 880 (1st Cir. 1981).
3. The field of specialty of defendant, John G. Gribben, M.D. is medical oncology and therefore, a medical oncologist is requested by the defendant to serve as the medical member of the Tribunal.

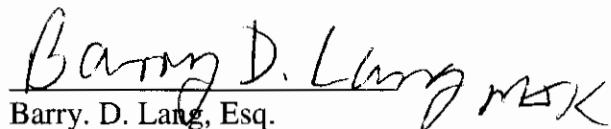
4. In further support of this motion, the defendant states that counsel for the plaintiff assents to the allowance of the same.

Wherefore, the defendant John Gribben, M.D respectfully requests that this matter be referred to the Clerk of the Suffolk Superior Court for the purpose of convening a medical malpractice tribunal.



Paul M. McTague
B.B.O. No. 541779
Michael J. Keefe
B.B.O. No. 263751
Attorneys for the Defendant,
John G. Gribben, M.D.
MARTIN, MAGNUSON, MCCARTHY
& KENNEY
101 Merrimac Street
Boston, Massachusetts 02114
(617) 227-3240

ASSENTED TO:

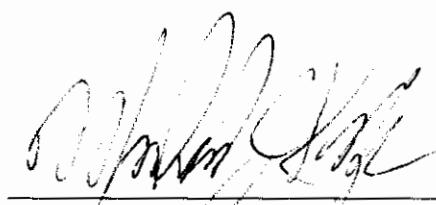


Barry D. Lang, Esq.
Barry D. Lang, M.D. & Associates
One State Street, Suite 1050
Boston, Massachusetts 02109
T: (617) 720-0176

CERTIFICATE OF SERVICE

I, Michael J. Keefe, counsel for the defendant, John G. Gribben, M.D., hereby certify that on the 7th day of June, 2005, I served the foregoing Motion Of The Defendant, John Gribben For Order Referring This Matter To The Clerk Of The Suffolk Superior Court To Convene A Medical Malpractice Tribunal (Assented To). by mailing a copy thereof, postage prepaid to:

Barry. D. Lang, Esq.
Zachary B. Lang, Esq.
Barry D. Lang, M.D. & Associates
One State Street, Suite 1050
Boston, Massachusetts 02109



Paul M. McTague
B.B.O. No. 541779
Michael J. Keefe
B.B.O. No. 263751
Attorneys for the Defendant,
John G. Gribben, M.D.
MARTIN, MAGNUSON, MCCARTHY
& KENNEY
101 Merrimac Street
Boston, Massachusetts 02114
(617) 227-3240